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Note verbale dated 26 February 2017 from the United States Mission to the United Nations addressed to the Chair of the Committee

The United States would like to submit its national implementation report (see annex) for Security Council resolution 2321 (2016) pursuant to paragraph 36 of that resolution.

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Annex to the note verbale dated 26 February 2017 from the United States Mission to the United Nations addressed to the Chair of the Committee

Report of the United States of America on the implementation of Security Council resolution 2321 (2016)

The present report describes concrete measures by which the United States implements paragraphs 3, 4, 15, 16, 18, 22-24, 26 and 29-33 of Security Council resolution 2321 (2016) regarding the Democratic People's Republic of Korea (DPRK). The United States considers it essential for Member States to fully and effectively implement the resolution. The United States intends to continue supporting other States' efforts, as requested, and to the extent possible, to implement the resolution.

Among the measures through which the United States implements the relevant provisions of the resolution are the following:

Paragraph 3. Decides that the measures specified in paragraph 8 (d) of resolution 1718 (2006) shall apply also to the individuals and entities listed in annex I and II of this resolution and to any individuals or entities acting on their behalf or at their direction, and to entities owned or controlled by them, including through illicit means, and decides further that the measures specified in paragraph 8 (e) of resolution 1718 (2006) shall also apply to the individuals listed in annex I of this resolution and to individuals acting on their behalf or at their direction

The United States has designated all of the individuals and entities listed in annex I to resolution 2321 (2016) for an asset freeze under various authorities administered by the Department of the Treasury and the Department of State. The rules of the Office of Foreign Assets Control extend this freeze to entities that are 50 per cent or more owned by designated persons. Individuals and entities acting on behalf or at the direction of a designated individual or entity, and entities that are controlled (but are not 50 per cent or more owned) by designated entities may be subject to derivative designations under the authority used to designate the primary target.

The names of all individuals listed in annex I have been entered into the appropriate consular database for assessment should an individual apply for a visa or entry. Individuals and entities acting on behalf or at the direction of a designated individual or entity may be subject to derivative designations under the authority used to designate the primary target.

The Department of Homeland Security has the authority to deny entry into or transit of aliens through the United States based on grounds specified by the relevant laws and regulations, including, for example, 8 U.S.C. §§ 1182 (a) (3) (C) and (f).

Paragraph 4. Decides that the measures imposed in paragraph 8 (a), 8 (b) and 8 (c) of resolution 1718 (2006) shall also apply to the items, materials, equipment, goods and technology listed in annex III of this resolution

The United States does not permit the export or re-export to North Korea of any items that could contribute to North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes. These restrictions apply to the items listed in annex III to the resolution, which include items that are controlled for nuclear non-proliferation, missile technology, and chemical and biological reasons and items that could contribute to North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

The items in that annex require a licence from the United States Department of Commerce under the Export Administration Regulations (EAR) for export or re-export to North Korea. Applications for export and re-export to all end users in North Korea of the items listed in annex III are subject to a policy of denial.

The United States works with like-minded countries, including those in the Wassenaar Arrangement, the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Proliferation Security Initiative, and participates in outreach programmes to non-member countries, to prevent transfers to North Korea of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in annex III to the resolution.

Paragraph 11. Decides that all Member States shall suspend scientific and technical cooperation involving persons or groups officially sponsored by or representing the DPRK except for medical exchanges unless:

(a) In the case of scientific or technical cooperation in the fields of nuclear science and technology, aerospace and aeronautical engineering and technology, or advanced manufacturing production techniques and methods, the Committee has determined on a case-by-case basis that a particular activity will not contribute to the DPRK's proliferation sensitive nuclear activities or ballistic missile-related programmes; or

(b) In the case of all other scientific or technical cooperation, the State engaging in scientific or technical cooperation determines that the particular activity will not contribute to the DPRK's proliferation sensitive nuclear activities or ballistic missile-related programmes and notifies the Committee in advance of such determination

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 1 (a) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, in relevant part blocks all property and interests in property of the DPRK Government. Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted.

The Department of Commerce restricts exports and re-exports United States-origin technology and software to the DPRK, whether by United States persons or non-United States persons, including "deemed" exports and re-exports (releases of

technology subject to the EAR to a foreign national in the United States or in a third country). Provision of specialized teaching or training to DPRK nationals could constitute an export of services to the DPRK under the Executive Order (and is thus prohibited except as licensed or exempt). Such teaching or training could also involve a release of technology to a foreign national; if the technology is subject to the EAR, the Bureau of Industry and Security would restrict its release.

Paragraph 15. Decides that all Member States shall take steps to restrict the entry into or transit through their territory of members of the Government of the DPRK, officials of that Government, and members of the DPRK armed forces, if the State determines that such members or officials are associated with the DPRK's nuclear or ballistic missile programmes or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), or this resolution

The Department of Homeland Security has the authority to deny entry into or transit through the United States of aliens deemed inadmissible on grounds specified by the relevant laws and regulations, including, for example, 8 U.S.C. §§ 1182 (a) (3) (C) and (f).

Paragraph 16. Decides that all States shall take steps to limit the number of bank accounts to one per DPRK diplomatic mission and consular post, and one per accredited DPRK diplomat and consular officer, at banks in their territory

Section 1 (a) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, in relevant part blocks all property and interests in property of the DPRK Government. Provision of goods or services in the United States to the official mission of the DPRK to the United Nations is authorized by a general licence. However, on 20 December 2016, the Department of the Treasury amended this general licence to require United States financial institutions to obtain specific licences to operate accounts for, and extend credit to, the DPRK mission or to the employees of that mission. Subsequently, the Department of the Treasury specifically licensed a United States financial institution to establish and operate one bank account for the mission and to establish and operate one bank account for each accredited member of the mission.

Paragraph 18. Decides that all Member States shall prohibit the DPRK from using real property that it owns or leases in their territory for any purpose other than diplomatic or consular activities

Section 1 (a) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, in relevant part blocks all property and interests in property of the DPRK Government. Provision of goods or services in the United States to the official mission of the DPRK to the United Nations is authorized by a general licence, but that authorization is limited to activities for the conduct of the official business of the mission.

Paragraph 22. Decides that all Member States shall prohibit their nationals, persons subject to their jurisdiction and entities incorporated in their territory or subject to their jurisdiction from providing insurance or re-insurance services to vessels owned, controlled, or operated, including through illicit means, by the DPRK unless the Committee determines on a case-by-case basis that the vessel is engaged in activities exclusively for livelihood purposes which will not be used by

DPRK individuals or entities to generate revenue or exclusively for humanitarian purposes

Section 1 (a) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, in relevant part blocks all property and interests in property of the DPRK Government. Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted.

Paragraph 23. Decides that all Member States shall prohibit their nationals from procuring vessel and aircraft crewing services from the DPRK

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 1 (a) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, in relevant part blocks all property and interests in property of the DPRK Government.

Paragraph 24. Decides that all Member States shall de-register any vessel that is owned, controlled, or operated by the DPRK, and further decides that Member States shall not register any such vessel that has been de-registered by another Member State pursuant to this paragraph

Section 1 (a) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, in relevant part blocks all property and interests in property of the DPRK Government. Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted.

Consolidated response to paragraphs 26, 28 and 29

Paragraph 26. Decides that paragraph 29 of resolution 2270 (2016) shall be replaced by the following:

> *"Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, coal, iron, and iron ore, and that all States shall prohibit the procurement of such material from the DPRK by their nationals, or using their flag vessels or aircraft, and whether or not originating in the territory of the DPRK, and decides that this provision shall not apply with respect to:*
>
> *(a) Coal that the procuring State confirms on the basis of credible information has originated outside the DPRK and was transported through the DPRK solely for export from the Port of Rajin (Rason), provided that the State notifies the Committee in advance and such transactions are unrelated to generating revenue for the DPRK's nuclear or ballistic missile programmes or*

other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) or this resolution;

(b) Total exports to all Member States of coal originating in the DPRK that in the aggregate do not exceed 53,495,894 US dollars or 1,000,866 metric tons, whichever is lower, between the date of adoption of this resolution and 31 December 2016, and total exports to all Member States of coal originating in the DPRK that in the aggregate do not exceed 400,870,018 US dollars or 7,500,000 metric tons per year, whichever is lower, beginning 1 January 2017, provided that the procurements (i) involve no individuals or entities that are associated with the DPRK's nuclear or ballistic missile programmes or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or this resolution, including designated individuals or entities, or individuals or entities acting on their behalf or at their direction, or entities owned or controlled by them, directly or indirectly, or individuals or entities assisting in the evasion of sanctions, and (ii) are exclusively for livelihood purposes of DPRK nationals and unrelated to generating revenue for the DPRK's nuclear or ballistic missile programmes or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or this resolution, and decides that each Member State that procures coal from the DPRK shall notify the Committee of the aggregate amount of the volume of such procurement for each month no later than 30 days after the conclusion of that month on the form in annex V to this resolution, directs the Committee to make publicly available on its website the volume of procurement of coal from the DPRK reported by Member States and value calculated by the Committee Secretary, as well as the amount reported for each month and with the number of States that reported for each month, directs the Committee to update this information on a real-time basis as it receives notifications, calls upon all States that import coal from the DPRK to periodically review this website to ensure that they do not exceed the mandatory aggregate annual limit, directs the Committee Secretary to notify all Member States when an aggregate value or volume of coal procurements from the DPRK of 75 per cent of the aggregate yearly amount has been reached, also directs the Committee Secretary to notify all Member States when an aggregate value or volume of coal procurements from the DPRK of 90 per cent of the aggregate yearly amount has been reached, further directs the Committee Secretary to notify all Member States when an aggregate value or volume of coal procurements from the DPRK of 95 per cent of the aggregate yearly amount has been reached and to inform them that they must immediately cease procuring coal from the DPRK for the year, and requests the Secretary-General to make the necessary arrangements to this effect and provide additional resources in this regard; and

(c) Transactions in iron and iron ore that are determined to be exclusively for livelihood purposes and unrelated to generating revenue for the DPRK's nuclear or ballistic missile programmes or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or this resolution."

Paragraph 28. Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, copper, nickel, silver and zinc, and that all Member States shall prohibit the procurement of such material from the DPRK by their nationals, or using their flag vessels or aircraft, and whether or not originating in the territory of the DPRK;

Paragraph 29. Decides that the DPRK shall not supply, sell or transfer, directly or indirectly, from its territory or by its nationals or using its flag vessels or aircraft, statues, and that all States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flag vessels or aircraft, whether or not originating in the territory of the DPRK, unless the Committee approves on a case-by-case basis in advance

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

In addition, wherever located, a United States person is prohibited by Executive Order 13722 from dealing in property in which a designated person or the Government of the DPRK has any interest.

Since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration, except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration; (b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

The Department of Homeland Security, United States Customs and Border Protection, can inspect all cargo on aircraft destined for or departing the United States (see, for example, 19 U.S.C. §§ 482, 1499), and seize and/or forfeit any article introduced or exported contrary to law or arms or munitions of war exported in violation of law, as well as any associated vessel or aircraft (see, for example, 19 U.S.C. § 1595a and 22 U.S.C. § 401).

With respect to United States-flagged vessels, pursuant to 14 U.S.C. § 89, the Department of Homeland Security/United States Coast Guard may board and inspect any United States-flagged vessel anywhere it is located, beyond the territorial sea of another country, to enforce United States laws. Within United States customs waters (up to 24 nautical miles from the coastline of the United States) or a declared customs-enforcement area (see 19 U.S.C. § 1701), the Department of Homeland Security/Coast Guard and the United States Customs and

Border Protection share authority to board vessels, examine manifests and search cargo (see, for example, 19 U.S.C. § 1581 and 14 U.S.C. § 89).

If a vessel or aircraft is itself of United States origin, regardless of its flag, or if the value of the United States-origin parts of the vessel or aircraft exceeds 10 per cent of the total value of the vessel/aircraft, the vessel or aircraft itself is subject to the Export Administration Regulations and a Bureau of Industry and Security licence would be required for the vessel to travel to the DPRK and for its re-export from the DPRK to a third country. These EAR export and re-export rules would apply even if the prohibited items the vessel or aircraft is transporting are not themselves subject to the EAR because they do not meet the *de minimis* threshold for controlled United States-origin content.

Paragraph 30. Decides that all Member States shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories, of new helicopters and vessels, except as approved in advance by the Committee on a case-by-case basis

The Department of Commerce's regulations (EAR), prohibit the export from the United States to the DPRK (or re-export from a third country) of all items subject to the EAR except food or medicine designated as "EAR99," unless otherwise licensed. The EAR licence requirement covers all vessels or aircraft subject to the EAR, including United States-origin vessels and aircraft and foreign-origin vessels and aircraft in which the value of the United States-origin content exceeds 10 per cent of the item's total value, regardless of flag. The Bureau of Industry and Security would review licence applications for the export or re-export of new helicopters and vessels subject to the regulations under a general policy of denial. A separate export or re-export licence requirement could apply to the vessel or aircraft (regardless of flag) transporting any new helicopters and vessels. This licence requirement could apply to the export or re-export of the helicopters or vessels even if they are transported by a vessel/aircraft that is not subject to the EAR (foreign-origin and does not meet the *de minimis* United States-origin content threshold).

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted. Under the Executive Order, the Office of Foreign Assets Control prohibits exports from abroad by United States persons of items not subject to the EAR.

Since 1998, the Federal Aviation Administration has prohibited civil flight operations by United States-registered aircraft, except where the operator of such aircraft is a foreign air carrier, through the Pyongyang Flight Information Region west of 132 degrees east longitude, which includes the DPRK's territorial airspace. The flight prohibition also applies to all United States air carriers or commercial operators and all persons exercising the privileges of an airman certificate issued by the Federal Aviation Administration, except such persons operating United States-registered aircraft for foreign air carriers. Exceptions exist for (a) operations authorized by an exemption issued by the Federal Aviation Administration;

(b) operations authorized by another agency of the Government of the United States with Federal Aviation Administration approval; and (c) in-flight emergencies.

Paragraph 31. Decides that Member States shall take the necessary measures to close existing representative offices, subsidiaries or banking accounts in the DPRK within 90 days, unless the Committee determines on a case-by-case basis that such offices, subsidiaries or accounts are required for the delivery of humanitarian assistance or the activities of diplomatic missions in the DPRK or the activities of the United Nations or its specialized agencies or related organizations or any other purpose consistent with the objectives of this resolution

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted.

Section 1 of Executive Order 13570, administered by the Department of the Treasury in consultation with the Department of State, prohibits the importation into the United States, directly or indirectly, of any goods, services or technology from the DPRK. Section 2 (a) of Executive Order 13570 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of or attempts to violate the prohibitions in Executive Order 13570.

Paragraph 32. Decides that all Member States shall prohibit public and private financial support from within their territories or by persons or entities subject to their jurisdiction for trade with the DPRK (including the granting of export credits, guarantees or insurance to their nationals or entities involved in such trade), except as approved in advance by the Committee on a case-by-case basis

Section 3 (a) (i) of Executive Order 13722, administered by the Department of the Treasury in consultation with the Department of State, prohibits the exportation or re-exportation, direct or indirect, from the United States, or by a United States person, wherever located, of any goods, services or technology to the DPRK, except as otherwise licensed or exempted.

Section 3 (a) (ii) of Executive Order 13722 prohibits new investment in the DPRK by United States persons, wherever located.

In addition, the Department of Commerce prohibits United States persons' support of, or participation in, "trade" activities with the DPRK that could contribute to the DPRK's weapons of mass destruction programmes without a licence. Applications to engage in such activities will be denied if the activities would make a material contribution to the DPRK's weapons of mass destruction programmes (see section 744.6 of the EAR). Such prohibited support need not involve the export or re-export of an item subject to the EAR.

Paragraph 33. Decides that, if a Member State determines that an individual is working on behalf of or at the direction of a DPRK bank or financial institution, then Member States shall expel the individual from their territories for the purpose of repatriation to the individual's state of nationality, consistent with applicable national and international law, unless the presence of the individual is required for

fulfilment of a judicial process or exclusively for medical, safety or other humanitarian purposes, or the Committee has determined on a case-by-case basis that the expulsion of the individual would be contrary to the objectives of resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), or this resolution

The Department of Homeland Security can remove such an individual pursuant to a final order of removal, or if the individual poses a threat to national security or public safety (see 8 U.S.C. § 1227 (a) (4)).